

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Billed Party Preference) CC Docket No. 92-77
for 0+ InterLATA Calls)

ORIGINAL
FILE

COMMENTS OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL

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Federal Communications Commission
Office of the Secretary

Albert H. Kramer
Robert F. Aldrich

Keck, Mahin & Cate
1201 New York Avenue N.W.
Washington, D.C. 2005-3919
(202) 789-3400

Attorneys for American Public
Communications Council

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The American Public Communications Council ("APCC") submits the following comments in response to the Commission's Notice of Proposed Rulemaking, CC Docket No. 92-77, FCC 92-169, released May 8, 1992 ("Notice"). The Commission's Notice tentatively concludes that, "in concept, a nationwide system of billed party preference for all 0+ interLATA calls is in the public interest," and proposes to mandate implementation of billed party preference. Notice, ¶ 13.

STATEMENT OF INTEREST

APCC is a national trade association made up of more than 175 independent (non-telephone company) providers of pay telephone and public communications facilities. APCC seeks to promote high standards of service and the development of fair and effective

local exchange competition in the provision of payphones and public communications service.

SUMMARY

The Commission's Notice tentatively concludes that, "in concept, a nationwide system of billed party preference is in the public interest." Notice, para. 13. APCC does not dispute that, "in concept," the idea of routing calls automatically from public telephones to reach the customer's preferred carrier, without dialing any extra numbers, has some appeal. However, to impose such a system on the public communications industry would reverse virtually every important procompetitive FCC policy of the last twenty years. To impose such a system would be in the public interest only if it is in the public interest to return public communications to the monopoly era.

The Commission has spent two decades crafting competitive policies that allow the marketplace to decide the value of new service offerings. These policies ensure that innovative technology to benefit consumers can be developed in premises based as well as network based offerings. Compulsory billed party preference is contrary to these fundamental policies and would forcibly shight the locus of "intelligent" communications functions back to dominant carrier networks. In addition, compulsory billed party preference also upsets the balance struck by Congress in the Telephone Operator Consumer Services Improvement Act, which uses

the system of access codes to accommodate the interests of consumers and equipment owners.

Compulsory billed party preference would not offer significant improvements in convenience for consumers. By the time billed party preference could be implemented, Congress will be thoroughly acclimated to the use of access codes. Any additional benefits offered by billed party preference would be worth little because of the impracticality of applying the system to intraLATA calls and the numerous other barriers to uniform, efficient implementation. Any benefits cannot possibly be worth the predictably astronomical costs of a new monopoly service.

Further, billed party preference would not improve, but would destroy, competitive payphoe and operator service markets. To the extent that there are continuing concerns with the way these markets are functioning, the Commission should address the underlying structural problems and bottlenecks, including the glaring inequities in regulatory treatment of local exchange carrier ("LEC") and independent payphones. Imposing a crippling new system of regulation is not the way to cure industry problems.

I. A COMPULSORY SYSTEM OF BILLED PARTY PREFERENCE WOULD
REVERSE THE BASIC POLICY IN THE PUBLIC COMMUNICATIONS
MARKET

For more than two decades, the Commission has worked to craft competitive telecommunications policies that ensure a diverse, innovative marketplace of products and services. In CPE, enhanced services, long distance, and most recently local service markets,

the Commission has consistently sought to ensure that opportunities for entrepreneurial ventures and deployment of new telecommunications technology were not limited to the companies with franchised monopolies or dominant facilities-based networks. By ensuring that new applications of technology could be developed and deployed outside dominant carriers' networks, the Commission has ensured that the telecommunications marketplace would offer a diversity of products and services to users, and that the possibilities for product and service innovation would not be limited by the relatively narrow vision of a monopolist or quasi-monopolist.

Accordingly, in each of the policy sectors in which the Commission has successfully fostered competition, the Commission has proceeded by eliminating the restrictions imposed by tariffs or regulations on the kinds of products and services that can be interconnected with the public network by individual service suppliers.

A. CPE Policy Would Be Reversed

In the decisions that established a competitive environment for CPE, the Commission authorized individual subscribers to purchase equipment of their own choosing, connect it to the network, and use it in ways that are "privately beneficial without

being publicly detrimental."¹ This policy has been extended to allow the connection to the network of a wide variety of competitively provided customer-owned equipment, including "public communications" equipment such as pay telephones.²

The result of the Commission's non-restrictive CPE policy has been to stimulate a multitude of innovative, low-priced equipment, both in the CPE market as a whole and in the specialized payphone sector of that market. For example, the competitive pay telephone industry has been especially innovative in introducing efficiencies in the maintenance of payphone equipment. Competitive payphone providers use innovative maintenance and repair techniques, including remote polling and trouble-reporting capabilities, computerized diagnostics, and improved coin return functions.

The competitive payphone industry also has been the first to introduce new service-oriented technology at payphones. The "store-and-forward" capability of "smart" payphones makes it

¹See e.g., Carterfone, 13 FCC 2d 420, recon den. 14 FCC 2d 571 (1968); Telerent Leasing Corp. et al., 45 FCC 2d 204 (1974), aff'd sub nom. North Carolina Utilities Commission v. FCC, 537 F.2d 787 (4th Cir.), cert. den., 429 U.S. 1027 (1976) (NCUC I); Mebane Home Telephone Co., 53 FCC 2d 473 (1975), aff'd Mebane Home Telephone Co. v. FCC, 535 F.2d 1324 (D.C. Cir. 1976); First Report and Order in Docket No. 19528, 56 FCC 2d 593 (1975); on reconsideration, 57 FCC 2d 1216 (1976), 59 FCC 2d 716 (1976) and 59 FCC 2d 83 (1976); Second Report and Order, 58 FCC 2d 736 (1976); aff'd sub. nom. North Carolina Utilities Commission v. FCC, 552 F.2d 1036 (4th Cir.), cert. den. 434 U.S. 874 (1977) (NCUC II); Phase II Final Decision and Order in Docket No. 19129, 64 FCC 2d 1 (1977); Implications of the Telephone Industry's Primary Instrument Concept, 68 FCC 2d 1157 (1978).

²Registration of Coin Operated Telephones, 57 RR 2d 133 (1984), on reconsideration, FCC 85-16 (Jan 22, 1985).

possible to offer services on credit from within the payphone. The new services and functions pioneered at "smart" payphones include automated collect calling, voice recognition, commercial credit card acceptance, and enhanced services such as voice messaging. The Commission's policy promoting free interconnection of CPE has allowed the payphone to become an important source of decentralized intelligence that enables location owners to offer the public "customized" location-specific enhanced service offerings as an alternative to network-based services.

A compulsory billed party preference system would substantially curtail the freedom that payphone owners as well as other CPE owners historically have been accorded under Commission policies. Equipment owners would be deprived of autonomy over how their equipment is technically interconnected with network services, and would lose the ability to select the primary service provider for their equipment. Equipment owners would lose these rights even though their equipment poses no threat of "harm" to the network. Compulsory billed party preference is therefore inconsistent with the Commission's established policy with respect to interconnection of CPE.

B. Enhanced Service Policy Would Be Reversed

Compulsory billed party preference also runs directly counter to the longstanding policies established by the Commission with respect to enhanced services. The Commission has allowed entrepreneurs to interconnect equipment to the network and offer

enhanced services that make use of network facilities. The Commission's policies allow enhanced service providers maximum flexibility to develop their businesses, free of carrier tariff prohibitions, unreasonable bundling of carrier services, or unnecessary regulatory restraints.

Under the Commission's Computer II³ and Computer III⁴ policies, for example, the Commission has upheld the fundamental principle that all enhanced service providers should have an equal opportunity to offer enhanced services to end users. The result of these policies has been to open up the market to a wide variety of enhanced service offerings by network and non-network based providers. Those affected by billed party preference are active participants in the enhanced service market. For example, the independent payphone industry pioneered the offering of voice messaging services, and many payphone providers currently offer voice messaging. Under billed party preference, payphone owners would lose their opportunity to offer enhanced services such as

³Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), Final Decision, 77 FCC 2d 384, modified on reconsideration, 84 FCC 2d 50 (1980), further modified on reconsideration, 88 FCC 2d 512 (1981), aff'd sub nom. Computer and Communications Indus. Ass'n v. FCC, 693 F.2d 198 (D.C. Cir. 1982), cert. denied, 461 U.S. 938 (1983), aff'd on second further reconsideration, FCC 84-190 (released May 4, 1984).

⁴Amendment of Section 64.702 of the Commission's Rules and Regulations, Report and Order, CC Docket No. 85-229, 104 FCC 2d 958 (1986), reconsideration, 2 FCC Rcd 3035 (1987), further reconsideration, 4 FCC Rcd 5927 (1989), vacated sub nom. California v. FCC, 905 F.2d 1217 (9th Cir. 1990); Computer III Remand Proceedings, Report and Order, CC Docket No. 90-368, 5 FCC Rcd 7719 (1990).

voice messaging to end users who dial 0+ at their payphones.

Specifically, under the existing system, the payphone owners can handle 0+ calls itself or send them to an operator service provider selected by the payphone owner. This enables the payphone owner to offer enhancements such as voice messaging. Under billed party preference, the calls must be sent directly to the LEC, who will have control of the call until the appropriate operator service provider has been identified and the call has been routed. Therefore, the LEC rather than the payphone owner will be positioned to offer enhancements such as voice messaging. The locus for 0+ based enhanced service offerings would be forcibly shifted to the network. This is inconsistent with the Commission's Computer III policy.⁵

C. Long Distance Policy Would Be Reversed

The Commission's numerous decisions that opened the long distance markets to competition have enabled subscribers to choose the carrier or operator service provider that will be "presubscribed" to its telephone lines. The subscriber thereby can

⁵Further, there is nothing in the logic of the Commission's proposal that would necessarily prevent it from being forcibly extended to other public communications services akin to payphone services -- e.g., to pay facsimile services. Like pay telephone services, public fax services offer a wide scope for the introduction of enhanced services to the casual user, and competition in this sector of the enhanced service market would be radically curtailed by the imposition of billed party preference.

select the package of services that will be offered to members of the public who are invited to use the subscriber's equipment.

Under the Resale and Shared Use decisions⁶, the Commission established that an equipment owner can provide its own package of services to its guests or to members of the public. This line of Commission decisions has given customers the fundamental freedom to take the services offered by facilities-based carriers and repackage it as their own service offering. When they choose to act as resellers, customers have the right to decide how to structure the package of offerings that they will offer the public, free from tariff restrictions that inhibit resale. Since the Commission's resale policies forbid carrier restrictions on resale, it goes without saying that those same policies are inconsistent with Commission regulations that would inhibit resale.⁷ Yet, that is exactly what regulations imposing compulsory billed party

⁶Regulatory Policies Concerning Resale and Shared Use of Common Carrier Services and Facilities, 60 FCC 2d 261 (1976), recon. 62 FCC 2d 588 (1977), aff'd AT&T v. FCC, 572 F.2d 17 (2d Cir.), cert. denied, 439 U.S. 875 (1978).

⁷Policy and Rules Concerning Rates for competitive Common Carrier Services and Facilities Therefor, Notice of Inquiry and Proposed Rulemaking, CC Docket No. 79-252, 77 FCC 2d 308 (1979); First Report and Order, 85 FCC 2d 1 (1980); Further Notice of Proposed Rulemaking, 84 FCC 445 (1981); Second Report and Order, 91 FCC 2d 59 (1982), recon. denied, 93 FCC 2d 54 (1983); Further Notice of Proposed Rulemaking, 47 Fed. Reg. 17308 (1982); Third Report and Order, 48 Fed. Reg. 46791 (1983); Third Further Notice of Proposed Rulemaking, 47 Fed. Reg. 28292 (1983); Fourth Report and Order, 95 FCC 2d 554 (1983); Fourth Further Notice of Proposed Rulemaking, 49 Fed. Reg. 11856 (1984); Fifth Report and Order, 98 FCC 2d 1191 (1984); Sixth Report and Order, 99 FCC 2d 1020 (1985), rev'd and remanded sub nom., MCI Telecomm'n's Corp. v. FCC. 765 F.2d 1186 (D.C. Cir. 1985).

preference would do. Compulsory billed party preference would preclude a subscriber from developing its own resold operator service offering in a way that best suits the subscriber's business plans and the needs of the location, and from making that resold offering the primary operator service offered at the subscriber's premises.

D. Local Exchange Competition Policy Would Be Reversed

Similarly, the thrust of the Commission's recent local exchange competition rulemaking is to increase the options of competitive access providers and subscribers for how they interconnect their own facilities with LEC networks.⁸ The Commission proposed to encourage the provision of alternative means of access to the interstate network and to require LECs to unbundle their access services to facilitate the interconnection of competitive access facilities. Payphone owners offer a type of competitive access facility,⁹ and are among the firms striving to offer subscribers alternative interconnection with the local exchange network. To this end, payphone owners and their end user customers would benefit greatly from further unbundling of LEC

⁸Expanded Interconnection with Local Telephone Company Facilities, Notice of Proposal Rulemaking and Notice of Inquiry, 6 FCC Rcd 3259 (1991).

⁹There can be little question that independent payphones are a type of "competitive access facility." Payphones offer end users an access point to the network as an alternative to the access provided by the payphone facilities of LECs. The latter, of course, are unquestionably "access" facilities because their costs are recovered through access charges.

access services. Compulsory billed party preference, however, would reverse the policy of unbundling access. Instead of increasing interconnection options, compulsory billed party preference would dramatically decrease the interconnection options of payphone owners. Payphone owners would be forced to interconnect with a bundled LEC service in which basic access is inseparable from the billed party preference system. Payphone owners would not be allowed to interconnect with the network without also interconnecting with billed party preference.

In addition, payphone owners would be deprived of the benefits of the local exchange competition rules proposed by the FCC. Under compulsory billed party preference, payphone owners with high-volume locations would not be able to use the special access services of competitive access providers ("CAPs") (or even the special access services of LECs) to gain efficiencies in accessing the interexchange network for completion of 0+ calls.

E. The Commission's Policy of Letting the Marketplace Decide the Value of Service Innovations Would Be Reversed

The Commission's proposal for billed party preference contradicts yet another Commission policy, which has been a fundamental precept in virtually all its major telecommunications decisions. For the last twenty years, the Commission has consistently followed the principle that the marketplace, not the Commission itself, should decide whether service innovations are worthwhile. However, neither the Commission nor any of the

advocates of "billed party preference" is willing to subject the system to a market test.

There has never been any persuasive showing why billed party preference cannot be tested on its own merits in the marketplace, rather than being imposed by government fiat. There is no reason to believe the system could not be marketed competitively if the benefits for consumers are as substantial as claimed. Once the service was introduced, the benefits would become familiar to consumers, and could be evaluated on its merits, provided that the Commission ensured that all the costs of the system were recovered from the "cost causers." To the extent that consumers considered the system cost-beneficial, they would prefer it, and would seek it out.

Moreover, it would not be difficult for a billed party preference service to compete with conventional commissions to location and equipment owners, if it were genuinely preferred by consumers. The rates charged to interexchange carriers for subscribing to billed party preference would provide an additional source of revenues that could be used by LECs to pay commissions to premises owners. Thus, LECs would have even more resources than they have today to pay commissions to induce location owners to use their equipment or to route calls to billed party preference services.

However, instead of letting the system be implemented voluntarily by those who choose to try it, the advocates of billed

party preference all argue that this supposedly beneficial service will work only if it is compulsory for all.

This is inconsistent with the entire policy direction on which the Commission long ago embarked and which it has continued to follow in these countless procompetitive decisions.

F. The Congressionally Enacted Policy of TOCSIA Would Be Reversed

In the Telephone Operator Consumer Services Improvement Act of 1990 ("TOCSIA"), Pub. L. No. 101-435, 101 Stat. 986 (1990), the Congress of the United States sought to ensure that consumers are free to choose the operator service provider they want from any location. The vehicle selected by Congress to achieve this goal was not compulsory billed party preference. Instead, Congress relied on the existing system of "access codes," which enable the "transient" user to dial a 10XXX, 950-XXXX, or 1-800-XXX-XXXX number to access a different carrier from the one presubscribed to the equipment owner's telephones and lines. In TOCSIA, Congress specifically approved the access code system and affirmed it as the national "equal access" policy for all telephones owned by one party and made available for use by others "in the ordinary course" of business.

TOCSIA provides that callers using payphones and other "aggregator" phones have a statutory right to access their preferred OSP by means of access codes. TOCSIA requires consumers to be provided with specific information to ensure that lack of

information does not prevent them from making a free choice among available services. In addition, TOCSIA requires "unblocking" of access codes to ensure that consumers using a particular telephone at a particular location are not prevented from reaching an alternative OSP to the one selected by the aggregator.

Under this policy, equipment owners' interest in deciding the conditions for use of their equipment must accommodate the interest of consumers in being able to access their preferred carrier if they wish. At the same time, TOCSIA preserves the rights of the owners of telephones to decide how they would like to structure the primary services available at their telephones. Therefore, TOCSIA allows the telephone owner -- who after all is the party responsible for ensuring that any service is provided to a location in the first instance -- to make the initial choice of service providers to serve the location. This approach recognizes that both the "transient" consumer and the telephone owner have legitimate roles in making the choices that allow the public communications marketplace to work.

The Commission's proposal for mandatory billed party preference completely upsets the careful balance struck by Congress. The telephone owner would be deprived of any right to choose a service provider for "0+" access. Instead, telephone owners would be forced to route "0+" traffic from their telephones through an automatic carrier selection mechanism controlled by the LEC. Compulsory billed party preference would remove the ability of independent suppliers of payphones or operator services to offer

a competitive package of equipment and services to a payphone location, and would remove much of the premises owner's incentive to make available payphones and operator services at all. Compulsory billed party preference therefore would reverse the balanced competitive policy established by TOCSIA, which allows and encourages equipment owners to be competitive players in the public communications industry as long as they ensure that consumers can choose alternatives to the public communications package they have assembled.

* * *

Now that access code dialing has been established as a national "operator service access" policy which all payphone owners and other aggregators must obey, it is the FCC's obligation to carry out this policy. It would be arbitrary and capricious for the FCC, except in the most compelling circumstances, to adopt a different and inconsistent policy, and to make that policy mandatory for the entire industry.

Further, even if the Commission were free to disregard the mandate of TOCSIA, it could not justify reversing the numerous fundamental Commission policies discussed above. Any substantial policy shift by a regulatory agency must be supported by reasoned analysis. Greater Boston Television Corp. v. FCC, 444 F.2d 841 (D.C. Cir. 1970), cert. denied, 403 U.S. 923 (1971). Such policy shifts are carefully scrutinized by the courts to ensure that the agency has considered all relevant factors. Motor Vehicle

Manufacturers Ass'n v. State Farm Mutual Automobile Insurance Co.,
463 U.S. 29 (1983).

The consequences of the multiple policy reversal contemplated by the Commission are of unprecedented gravity. In light of the havoc that mandatory billed party preference would wreak in the public communications industry, the alleged benefits of the system must be carefully reviewed to determine which (if any) are real and which are phantoms. In addition, all the negative consequences for consumers and competition must be considered and weighed against any actual identified benefits.

If, despite the record compiled to date, the Commission were actually to go forward with a proposal to adopt compulsory billed party preference, then it would be necessary to develop a complete evidentiary showing on each of the cost, service quality, and competitive issues that are raised by such a proposal.

As demonstrated below, such an analysis would have to conclude that compulsory billed party preference is not necessary to achieve any significant public interest objective. Further, to compel the use of billed party preference at this late date would serve primarily to confuse consumers and to cause massive marketplace havoc. Indeed, billed party preference would eliminate the competitive incentives that allow the public communications marketplace to work. In short, compulsory billed party preference

cannot possibly produce benefits that would justify the resulting harm.

II. THE CONSUMER CONVENIENCE BENEFITS OF BILLED PREFERENCE ARE SPECULATIVE AND ILLUSORY

Why is the Commission even considering a multiple policy reversal with such dire implications for the public communications industry? A principal reason advanced in the Notice for the adoption of billed party preference is that it would be "simpler" (Notice, para. 18) and "more 'user friendly'" (id., para. 16) for consumers who have found the dialing of 0+ calls a more complex and confusing process as a result of the changes in the industry. In fact, these supposed virtues of the billed party preference approach are speculative and largely illusory.

A. The Benefits Sought Are Already Being Achieved

As discussed above, the presubscription/access code system has been in place for a number of years, and has been further solidified as a result of TOCSIA and the Commission's rules implementing TOCSIA. This system offers essentially all the benefits promised by billed party preference. It allows consumers who want to reach a particular carrier to do so by dialing an access code. The system also allows consumers who do not want to reach a particular carrier, but merely want to dial a 0+ call conveniently, to do that as well. Finally, the system allows consumers who want to reach a particular carrier and who do not

want to dial an access code, to accomplish that, in most jurisdictions, by dialing "0" without any other digits.

Any confusion experienced by consumers under this system generally can be attributed to two factors. First, some aspects of the system are relatively new, and a period of time has been necessary for consumers to become acclimated. Second, the card-issuing practices of AT&T have created a great deal of confusion, because AT&T has provided mixed signals to consumers about the use of its card.¹⁰

As a result of the federal presubscription/access code dialing policy and its implementation by the industry, as well as the associated advertising campaigns of the major OSPs promoting the use of access codes, consumers are learning to dial access codes when they want to reach their presubscribed carrier from a different telephone. Subscribers to non-dominant carriers such as MCI and Sprint have long used access codes when they wanted to reach their presubscribed carrier. More recently, AT&T has massively publicized its own "10ATT" access code, and AT&T subscribers are learning to dial that code when they want to reach AT&T. All the aggregator and payphone equipment sold in the market today is required to have the capability for 10XXX dialing as well as other access codes. Thus, even equipment that does not currently have the 10XXX capability eventually will be replaced by equipment that does.

¹⁰See Comments of APCC and others in these proceedings, filed June 2, 1992.

As a result, access code dialing is becoming more and more prevalent and familiar to consumers. Well before any reasonable date by which a mandatory billed party preference system could be installed, access code dialing will be thoroughly familiar to the community of long distance callers. Those consumers who continue to dial 0+ instead of access codes will do so, not because they are unaware of access codes, or because they are "blocked" from dialing access codes, but only because they are not particularly motivated to dial access codes.

Under the Commission's proposal, just when consumers have become thoroughly acclimated to the presubscription/access code system, the tables would be turned. As a result, consumers would once again be thrown into confusion. The efforts of consumers and others to implement the access code system would be wasted.

B. Consumer Benefits of Billed Party preference Are Not "As Advertised"

Even disregarding the redundancy of what billed party preference offers consumers, a number of the purported consumer benefits of billed party preference are not "as advertised."

First, the system cannot be universally applied to all 0+ calls. Based on rough rule-of-thumb estimates, about 25% or so of 0+ calls are intrastate intraLATA calls (including 0+ local as well as toll calls). To these calls, billed party preference cannot be applied because there is no intraLATA presubscription. The LECs have made clear that they do not intend to implement a system that

hands off 0+ intraLATA calls to the billed party's preferred interLATA carrier. As a consequence, consumers will not be assured of reaching the billed party's preferred carrier on 25% or more of all 0+ calls. Consumers will have to dial access codes -- in those states where 0+ intraLATA competition is allowed -- on 0+ intraLATA calls in order to be sure of reaching their preferred carrier.

Second, the Commission has no authority to impose billed party preference on intrastate interLATA calls -- another 25% or so of 0+ calls. To these calls, mandatory billed party preference would apply only to the extent that regulations to that effect are adopted by the 50 state regulatory commissions. Any authority of the FCC to impose billed party preference on the marketplace would apply only to roughly 50% of 0+ calls -- those which are interstate interLATA calls.

Third, it is unclear whether billed party preference can be applied to telephones in non-equal access areas.

Fourth, the Commission has not decided whether its proposal would be applied to all telephones or a smaller category such as payphones or "aggregator" telephones. If the system were not made mandatory for all telephones, then there would be even fewer of the advertised benefits of uniformity for consumers. If the system were mandatory for all telephones, however, then not only all payphones but all PBXs will have to be reprogrammed -- a process most will have just completed in order to accommodate access code dialing. Further, those PBXs covered by the billed party preference routing requirement would not be able to make use of the

efficiencies offered by special access and by competitive access providers.

Finally, billed party preference would not achieve its purpose in those cases where the billed party has not selected a 0+ carrier, or where the billed party's selected carrier is not available. In such cases, "defaulting" traffic to another OSP, such as a carrier-designated back-up, would be a weak approximation of billed party preference, at best.

Thus, any benefits achieved by billed party preference will be greatly diluted because 0+ dialing cannot be relied upon to achieve a uniform result.

Whatever minimal benefits might be achieved by a system of billed party preference are further diluted by the problems that would accompany coordination and data exchange between LECs and IXCs. These problems include, but may not be limited to, the problems of "double operator systems" and increased "post-dialing" delays discussed in the Notice. Notice, ¶¶ 26-27.

Regarding the "two-operator" problem, consumers are likely to experience great confusion and inconvenience. For example, under billed party preference, when consumers dial a 0+ number, they will receive a bong tone from the LEC, prompting them to enter a card number. If the call is intraLATA, then the LEC will perform no look-up or routing, and will handle the call itself. If the call is interLATA, then the LEC will look up the cardholder's presubscribed OSP and route the call to that OSP. Now, unless the LEC has some way to transmit both the dialed number and the billing

information to the OSP, the caller must enter this information all over again so that the OSP can validate the card and complete the call.

Moreover, if the caller has not entered any billing information after the "bong," but has waited to give billing information (either a card number or identifying information for a collect call) to a live operator, then the inconvenience of two operators becomes even worse. The caller must tell the billing information to a LEC operator. The LEC operator will then perform the look-up and route the call to an OSP. The caller must then wait for the OSP's operator to come on the line, and tell the information again to the second operator.

Regarding post-dialing delay, it appears that some delay will be inherent in the billed party preference system no matter how it is configured. Under the current system, a call is routed to the OSP or IXC based on the digits dialed before the caller enters the called party's number. If there is an access code, the call is routed to the carrier identified by the access code. If there is no access code, the call is routed to the OSP presubscribed to the line. In either case, the process of setting up the call can be begun by the carrier while the caller is entering a credit card number or providing other billing information. The only task left to perform after that number is entered is validation.

Under billed party preference, however, the process of setting up the call cannot be begun until after the caller has entered both

the called party's number and the billing information. Therefore, there is no opportunity to save time during the dialing process. Thus, even after AABS and SS7 have been fully implemented, there is reason to believe that the setting up of calls will take significantly longer under billed party preference than under the current system.

C. Any Marginal Benefits That Can Be Achieved Are Not Worth the Cost

Further, even the results that can be achieved are of questionable value. What is really gained by making billed party preference available on a 0+ basis, at great expense, to consumers who have already learned to reach their preference by dialing access codes? To analyze this question, it is helpful to consider separately the two groups of consumers -- those who are willing to dial access codes and those who are not. The consumers who are willing to (and therefore do) dial access codes arguably would be saved the trouble of dialing the extra digits to reach their preferred carrier. However, these consumers will not be saved the trouble of learning to dial their access code -- they already know how to do that.

As for those consumers who are unwilling to dial access codes at present (or at any time before billed party preference was adopted), it can be assumed that these consumers are not highly motivated to reach a particular carrier. It must be questioned, therefore, whether such consumers would derive any appreciable